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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DAVID B. MATA,

Defendant.

Case No. 3:22-cv-2565

[PROPOSED] JUDGMENT AS TO DEFENDANT DAVID B. MATA

The Securities and Exchange Commission having filed a Complaint and Defendant David B. Mata (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of

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interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in
 2 Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following
 3 who receive actual notice of this Judgment by personal service or otherwise: (a) Defendant's
 4 officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or
 5 participation with Defendant or with anyone described in (a).

6 III.

7 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
 8 Defendant is permanently restrained and enjoined from violating Sections 5(a) and (c) of the
 9 Securities Act [15 U.S.C. §§ 77e(a) and (c)] by, directly or indirectly, in the absence of any
 10 applicable exemption:

- 11 (a) Unless a registration statement is in effect as to a security, making use of any
 12 means or instruments of transportation or communication in interstate
 13 commerce or of the mails to sell such security through the use or medium of
 14 any prospectus or otherwise; or
 15 (c) Making use of any means or instruments of transportation or communication in
 16 interstate commerce or of the mails to offer to sell or offer to buy through the
 17 use or medium of any prospectus or otherwise any security, unless a
 18 registration statement has been filed with the Commission as to such security,
 19 or while the registration statement is the subject of a refusal order or stop order
 20 or (prior to the effective date of the registration statement) any public
 21 proceeding or examination under Section 8 of the Securities Act [15 U.S.C. §
 22 77h].

23 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in
 24 Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following
 25 who receive actual notice of this Judgment by personal service or otherwise: (a) Defendant's
 26 officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or
 27 participation with Defendant or with anyone described in (a).
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IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Sections 206(1), (2) and (4) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1), (2) and (4)], and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8], by, directly or indirectly, by the use of any means or instrumentality of interstate commerce:

- (a) employing any device, scheme, or artifice to defraud any client or prospective client;
- (b) engaging in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client;
- (c) engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative; or
- (d) while acting as an investment adviser to a pooled investment vehicle:
 - 1. making any untrue statement of a material fact or omitting to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle; or
 - 2. otherwise engaging in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

V.

1 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
 2 pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], Defendant is
 3 permanently restrained and enjoined from directly or indirectly, including, but not limited to,
 4 through any entity owned or controlled by Defendant, participating in the issuance, purchase,
 5 offer, or sale of any securities, provided however, that such injunction shall not prevent
 6 Defendant from purchasing or selling securities for his own personal account.

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in
 8 Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following
 9 who receive actual notice of this Judgment by personal service or otherwise: (a) Defendant's
 10 officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or
 11 participation with Defendant or with anyone described in (a).

12 VI.

13 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that
 14 Defendant is liable for disgorgement of \$75,000, representing profits gained as a result of the
 15 conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of
 16 \$11,624, for a total of \$86,624. Defendant shall satisfy this obligation by paying \$86,624 to
 17 the Securities and Exchange Commission within 30 days after entry of this Judgment.

18 Defendant may transmit payment electronically to the Commission, which will
 19 provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made
 20 directly from a bank account via Pay.gov through the SEC website at
 21 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank
 22 cashier's check, or United States postal money order payable to the Securities and Exchange
 23 Commission, which shall be delivered or mailed to

24 Enterprise Services Center
 25 Accounts Receivable Branch
 26 6500 South MacArthur Boulevard
 27 Oklahoma City, OK 73169
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1 and shall be accompanied by a letter identifying the case title, civil action number, and name
 2 of this Court; the Defendant's name as a defendant in this action; and specifying that payment
 3 is made pursuant to this Judgment.

4 Defendant shall simultaneously transmit photocopies of evidence of payment and case
 5 identifying information to the Commission's counsel in this action. By making this payment,
 6 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no
 7 part of the funds shall be returned to Defendant.

8 The Commission shall hold the funds (collectively, the "Fund") and may propose a
 9 plan to distribute the Fund subject to the Court's approval. The Court shall retain jurisdiction
 10 over the administration of any distribution of the Fund. If the Commission staff determines
 11 that the Fund will not be distributed, the Commission shall send the funds paid pursuant to
 12 this Judgment to the United States Treasury.

13 The Commission may enforce the Court's judgment for disgorgement and
 14 prejudgment interest by moving for civil contempt (and/or through other collection
 15 procedures authorized by law) as set forth in paragraph IX below. Defendant shall pay post-
 16 judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

17 VII.

18 Upon motion of the Commission, the Court shall determine whether it is appropriate
 19 to order a civil penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §
 20 78u(d)(3)], Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section 209(e) of the
 21 Advisers Act [15 U.S.C. § 80b-9(e)], and, if so, the amount of the civil penalty. In connection
 22 with the Commission's motion for a civil penalty, and at any hearing held on such a motion:
 23 (a) Defendant will be precluded from arguing that he did not violate the federal securities laws
 24 as alleged in the Complaint; (b) Defendant may not challenge the validity of this Consent or
 25 the Judgment; (c) the allegations of the Complaint shall be accepted as and deemed true by
 26 the Court; and (d) the Court may determine the issues raised in the motion on the basis of
 27 affidavits, declarations, excerpts of sworn deposition or investigative testimony, and
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1 documentary evidence, without regard to the standards for summary judgment contained in
2 Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission's
3 motion for a civil penalty, the parties may take discovery, including discovery from
4 appropriate non-parties.

5 VIII.

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for purposes of
7 exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the
8 allegations in the Complaint are true and admitted by Defendant, and further, any debt for
9 disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under
10 this Judgment or any other judgment, order, consent order, decree or settlement agreement
11 entered in connection with this proceeding, is a debt for the violation by Defendant of the
12 federal securities laws or any regulation or order issued under such laws, as set forth in
13 Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

14 IX.

15 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall
16 retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

17 X.

18 There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of
19 Civil Procedure, the Clerk is ordered to enter this Judgment forthwith and without further
20 notice.

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22 Dated: _____, _____

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24 _____
UNITED STATES DISTRICT JUDGE